IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.853 OF 2001

IN

SUMMARY SUIT NO.247 OF 2001

M/s.Sumer Investment & Finance Co. **....Plffs.**
vs.
M/s.Alpine Indu**stries Ltd a**nd Ors. ....Defnds

V.N. Kantawala a/w. V.M. Sharma i/b. Y.P. Yagnik for the plaintiffs.

CORAM: S.U. KAMDAR, J.

DATE : 22ND AUGUST 2005.

P.C. :

1. The present suit is filed on two hundies which are at Ex.A and B to the plaint. The said amount is sought to be recovered on the basis of bill discounting facility extended by the plaintiff to the defendant herein. The defendant also issued post dated cheque for Rs.25.00 lacs dated 18.8.97. However the defendant informed the plaintiff that not to deposit the cheque as defendant no.1 was not in

a position to make the payment. The amount covered by the said two bill of exchange is Rs.10,77,909/30/- and Rs.1602953.16/-. The amount was not paid. The plaintiff issued a notice and in reply thereof the defendant has by their letter dated 4.7.1999 has admitted the liability. The defendant no.1 was initially under the BIFR. However the plaintiff has filed affidavit dated 21.8.2005 inter-alia stating therein that the reference has been dismissed by the BIFR on 31.5.2005. Pursuant to my directions on 16.8.2005 the advocate for the defendant no.1 was served with the notice. However he has refused to accept the notice and refused to appear in person. The copy of the notice is also given to the defendant no.1 company. At the premises of the defendant no.1 when the notice was sought to be served it was found that the company is no more carrying on business thereon at the said address. In view thereof the affidavit of service dated 22.8.2005 is filed. Inspite of service none appears for the defendant. In view thereof Summons for

Judgment made absolute. Suit decreed accordingly with interest as modified at the rate of 18% p.a. on simple interest basis.

sd/- ********